IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

OP.No. 32540 of 2001(W)

PETITIONER:

V.N.PURUSHOTHAMAN POTTI
SREE ILLOM
SRP MARKET P.O,
KARUNAGAPPALLY
KOLLAM DISTRICT

BY ADV. SRI.P.VIJAYAKUMAR

RESPONDENTS:

1.STATE BANK OF TRAVANCORE
REPRESENTED BY MANAGING DIRECTOR
TRIVANDRUM

2. SIVAN SANKARAN NARAYANAN(ENQUIRY OFFICER)
ASST. GENERAL MANAGER
STATE BANK OF TRAVANCORE, ZONAL OFFICE
KANNUR

3. ASST.GENERAL MANAGER IV
(DISCIPLINARY AUTHORITY)
STATE BANK OF TRAVANCORE, ZONAL OFFICER
P.B. NO. 170, SHANTI NAGAR
TRIVANDRUM

4. GENERAL MANAGER(APPELLATE AUTHORITY)
SBT. ZONAL OFFICE, P.B. NO.170
SHANTI NAGAR
TRIVANDRUM

BY ADV. SRI.M.PATHROSE MATHAI

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 28 /06/2007, THE COURT ON 28/06/2007 DELIVERED THE FOLLOWING:

O.PNO. 32540 OF 2001

ORDER IN C.M.P NO. 53040 OF 2001 IN O.P NO. 32540 OF 2001

DISMISSED

28-06-2007 SD/- THOTTATHIL B. RADHAKRISHNAN, JUDGE

APPENDIX

PETITIONER'S EXHIBITS

Ext.P1: True copy of the representation dated 31-12-1998 submitted by Sri.S.Shibu before 1st respondent

Ext.P2: True copy of Memo dated 22-6-1999 issued by 3rd respondent to the petitioner.

Ext.P3: True copy of reply dated 10-7-1999 submitted by petitioner to 3rd respondent

Ext.P4: True copy of the investigation report dated 26-5-1999 submitted by Manager (Vigilance)

Ext.P5: True copy of Memo dated 29-7-1999 issued by the 3rd respondent to the petitioner.

Ext.P6: True copy of Memo dated 7-10-1999 issued by 3rd respondent to the petitioner.

Ext.P7: True copy of reply dated 15-11-1999 given by the petitioner to the 3rd respondent

Ext.P8: True copy of the written brief submitted by the presenting officer

Ext.P9: True copy of the defence brief dated 30-8-2000.

Ext.P10: True copy of the enquiry report dated 2-9-2000 furnished by the 2nd respondent

Ext.P11: True copy of the Explanation dated 20-9-2000 given to Ext.P10 by the

petitioner before the 3rd respondent

Ext.P12: True copy of the preliminary order dated 21-11-2000 issued by the 3rd respondent

Ext.P13: True copy of the reply dated 13-12-2000 given by the petitioner to the 3rd respondent

Ext.P14: True copy of the final order dated 8-1-2001 issued by the 3rd respondent

Ext.P15: True copy of the Appellate order dated 10-3-2001 issued by the 4th respondent

//True copy//

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THOTTATHIL B.RADHAKRISHNAN J.

O.P No. 32540 of 2001

Dated this the 28th day of June 2007

JUDGMENT

The petitioner was chargesheeted by the employer on about 15 crimes of alleged indiscipline. These include alleged amassing of wealth disproportionately from non-sources of income while a bank employee in the premises. Certain transactions reflected in the S.B. Account. apparently shows that mal-practices of the petitioner. The nature of the contentions raised int his original petition are such that the adjudication has to be on disputed questions of facts including the question as to whether the the bank accounts are in the joint names of the petitioner and his wife are to be looked into to ascertain as to whom the money really belonged. The petitioner's late father is stated to be an ayurvedic physician who had his own cures for Rheumatoid Arthritis . According to the petitioner he was told the knowhow of that procedure and therefore he and his son were involved in treating certain patients These are not the issues that should be adjudicated and concluded in writ proceedings. The petitioner is only a workman who has alternative efficacious remedy before the Industrial Courts. The petitioner however relies on the decision of this Court in **Padmanabhan Vs. Kerala State Handloom Development Corporation 1991 (2) K.L.T. short notes page No.55 (Case No.66)** which is rendered on relying on a decision of the apex court wherein it was held that alternate remedy may not be the ground for dismissing an original petition when it have been admitted and pending for

a long time. That was a case where this court found that the enquiry officer's findings were based on no evidence at all. This Original petition however apparently proceeds on the basis that the materials on record are insufficient to prove the charges. Therefore the mere pendency of this original petition for a few years, by itself, cannot lead this court to enter on an adjudication on disputed questions of facts. More so, when the quality of jurisdiction of the Industrial courts under the labour law including an opportunity for the Management to substantiate the charges before such authorities. Even if the enquiry and proceedings of the Management fails still further , even if the petitioner succeeds, the moulding of relief is a matter on which evidence may be required on the facts and circumstances of this case.

For the aforesaid reasons this writ petition is dismissed without prejudice to the right of the petitioner to move the competent authority for adjudication of his case by the competent courts under the labour laws. If competent authority had a reference, the question of reference shall be finalised within a period of three months and if the reference is made the Labour Court of the industrial Tribunal as the case may be will make an endeavour to dispose of the case as expeditiously as possible.

THOTTATHIL B.RADHAKRISHNAN
JUDGE

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